



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

SOUTH TEXAS HEALTH SYSTEM  
3255 W PIONEER PKWY  
ARLINGTON TX 76013-4620

#### **Respondent Name**

STATE OFFICE OF RISK MANAGEMENT

#### **Carrier's Austin Representative Box**

Box Number 45

#### **MFDR Tracking Number**

M4-11-1047-01

#### **MFDR Date Received**

November 23, 2010

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "HRA has been hired by South Texas Health System to audit their Workers Compensation claims. We have found in this audit they have not paid what we determine is the correct allowable per the APC allowable per the new fee schedule that started 3/01/2008 for the following account."

**Amount in Dispute:** \$2,449.54

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "...the Office has determined that due to an erroneous audit that additional reimbursement is warranted for date of service 7/26/10. The Office out of good faith has requested an immediate re-audit to be processed to allow reimbursement plus accrued interest in accordance with the Division's rules and payment policies."

**Response Submitted by:** State Office of Risk Management, PO Box 13777, Austin, Texas 78711

### **SUMMARY OF FINDINGS**

| Date(s) of Service | Disputed Services | Amount In Dispute | Amount Due |
|--------------------|-------------------|-------------------|------------|
| July 26, 2010      | Outpatient        | \$2,449.54        | \$2,449.54 |

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement for guidelines for professional medical services.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated August 31, 2010

- 16 – CLAIM/SERVICE LACKS INFORMATION WHICH IS NEEDED FOR ADJUDICATION. REMARK CODES WHENEVER APPROPRIATE.
- 17 – PAYMENT ADJUSTED BECAUSE REQUESTED INFORMATION WAS NOT PROVIDED OR WAS INSUFFICIENT/INCOMPLETE. ADDITIONAL INFORMATION IS SUPPLIED USING THE REMITTANCE ADVICE REMARKS CODES WHENEVER APPROPRIATE.
- 97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE.
- 125 – PAYMENT ADJUSTED DUE TO A SUBMISSION/BILLING ERROR(S). ADDITIONAL INFORMATION IS SUPPLIED USING THE REMITTANCE ADVICE REMARK CODES WHENEVER APPROPRIATE.

Explanation of benefits dated September 21, 2010

- 109 – CLAIM NOT COVERED BY THIS PAYER/CONTRACTOR. YOU MUST SEND THE CLAIM TO THE CORRECT PAYER /CONTRACTOR.
- 17 – PAYMENT ADJUSTED BECAUSE REQUESTED INFORMATION WAS NOT PROVIDED OR WAS INSUFFICIENT/INCOMPLETE. ADDITIONAL INFORMATION IS SUPPLIED USING THE REMITTANCE ADVICE REMARKS CODES WHENEVER APPROPRIATE.
- 97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE.
- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT
- 125 – PAYMENT ADJUSTED DUE TO A SUBMISSION/BILLING ERROR(S). ADDITIONAL INFORMATION IS SUPPLIED USING THE REMITTANCE ADVICE REMARK CODES WHENEVER APPROPRIATE.
- 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PROCESSED PROPERLY THE FIRST TIME.
- W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION.

Explanation of benefits dated October 25, 2010

- 109 – CLAIM NOT COVERED BY THIS PAYER/CONTRACTOR. YOU MUST SEND THE CLAIM TO THE CORRECT PAYER /CONTRACTOR.
- 17 – PAYMENT ADJUSTED BECAUSE REQUESTED INFORMATION WAS NOT PROVIDED OR WAS INSUFFICIENT/INCOMPLETE. ADDITIONAL INFORMATION IS SUPPLIED USING THE REMITTANCE ADVICE REMARKS CODES WHENEVER APPROPRIATE.
- 97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE.
- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT
- 125 – PAYMENT ADJUSTED DUE TO A SUBMISSION/BILLING ERROR(S). ADDITIONAL INFORMATION IS SUPPLIED USING THE REMITTANCE ADVICE REMARK CODES WHENEVER APPROPRIATE.
- 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PROCESSED PROPERLY THE FIRST TIME.
- W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION.

Explanation of benefits dated December 20, 2010

- 109 – CLAIM NOT COVERED BY THIS PAYER/CONTRACTOR. YOU MUST SEND THE CLAIM TO THE CORRECT PAYER /CONTRACTOR.
- 97 – PAYMENT IS INCLUDED IN THE ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE.
- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT
- 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. THIS CLAIM WAS PROCESSED PROPERLY THE FIRST TIME.
- W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION.

### **Issues**

1. Are there any unresolved issues of compensability, entitlement or liability related to the services in dispute?
2. Are the disputed services subject to a contractual agreement between the parties to this dispute?
3. What is the applicable rule for determining reimbursement for the disputed services?
4. What is the recommended payment amount for the services in dispute?
5. Is the requestor entitled to reimbursement?

### **Findings**

1. The insurance carrier denied CPT codes 36415 and 80048 with reason code 109 – "CLAIM NOT COVERED BY

THIS PAYER/CONTRACTOR. YOU MUST SEND THE CLAIM TO THE CORRECT PAYER/CONTRACTOR.” This denial reason was not maintained upon reconsideration, and additional payment was issued by the respondent for these services. CPT codes 80076, 86850, 86900, 86901, 82055, 82150, and 83690 have been withdrawn by the requestor and will not be considered in this review. The Division therefore concludes that there are no unresolved issues of compensability, entitlement or liability in regard to the remaining services in dispute. These services will therefore be reviewed per applicable Division rules and fee guidelines.

2. Review of the submitted documentation finds no information to support a contractual agreement between the parties to this dispute.
3. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.
4. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published annually in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
  - Procedure code 36415 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Payment for this service is calculated according to the Medical Fee Guideline for Professional Services §134.203. The fee listed for this code in the applicable Medicare fee schedule is \$3.00. 125% of this amount is \$3.75. The recommended payment is \$3.75.
  - Procedure code 80048 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Payment for this service is calculated according to the Medical Fee Guideline for Professional Services §134.203. The fee listed for this code in the applicable Medicare fee schedule is \$12.12. 125% of this amount is \$15.15. The recommended payment is \$15.15.
  - Procedure code 85025 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Payment for this service is calculated according to the Medical Fee Guideline for Professional Services §134.203. The fee listed for this code in the applicable Medicare fee schedule is \$11.14. 125% of this amount is \$13.93. The recommended payment is \$13.93.
  - Procedure code 71010 has a status indicator of X, which denotes ancillary services paid under OPPS with separate APC payment. This service is classified under APC 260, which, per OPPS Addendum A, has a payment rate of \$44.90. This amount multiplied by 60% yields an unadjusted labor-related amount of \$26.94. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$23.93. The non-labor related portion is 40% of the APC rate or \$17.96. The sum of the labor and non-labor related amounts is \$41.89. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$41.89. This amount multiplied by 200% yields a MAR of \$83.78.
  - Procedure codes 71260, 72125, 72193, and 74160 have a status indicator of Q3, which denotes codes that may be paid through a composite APC; payment is packaged into a single payment for specific combinations of service. These services are classified under composite APC 8006, which, per OPPS Addendum A, has a

payment rate of \$628.49. This amount multiplied by 60% yields an unadjusted labor-related amount of \$377.09. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$334.97. The non-labor related portion is 40% of the APC rate or \$251.40. The sum of the labor and non-labor related amounts is \$586.37. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$2,175, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.372. This ratio multiplied by the aggregate billed charge of \$3,265.00 for the services included in this composite APC yields a cost of \$5,571.82. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The composite APC payment of \$586.37 divided by the sum of all APC payments is 62.73%. The sum of all packaged costs is \$274.54. The allocated portion of packaged costs is \$172.22. This amount added to the service cost yields a total cost of \$5,744.03. The cost of this service exceeds the annual fixed-dollar threshold of \$2,175. The amount by which the cost exceeds 1.75 times the OPPS payment is \$4,717.89. 50% of this amount is \$2,358.94. The total APC payment for this service, including outliers, is \$2,945.31. This amount multiplied by 200% yields a MAR of \$5,890.62.

- Per CMS correct coding edits, procedure code 96374 is included in, or mutually exclusive to, another code billed on the same date of service. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately. The requestor billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 96374 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 437, which, per OPPS Addendum A, has a payment rate of \$37.44. This amount multiplied by 60% yields an unadjusted labor-related amount of \$22.46. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$19.95. The non-labor related portion is 40% of the APC rate or \$14.98. The sum of the labor and non-labor related amounts is \$34.93. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$34.93. This amount multiplied by 200% yields a MAR of \$69.86.
- Per CMS correct coding edits, procedure code 96375 is included in, or mutually exclusive to, another code billed on the same date of service. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately. The requestor billed the disputed service with an appropriate modifier. Separate payment is allowed. Procedure code 96375 has a status indicator of S, which denotes a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. This service is classified under APC 437, which, per OPPS Addendum A, has a payment rate of \$37.44. This amount multiplied by 60% yields an unadjusted labor-related amount of \$22.46. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$19.95. The non-labor related portion is 40% of the APC rate or \$14.98. The sum of the labor and non-labor related amounts is \$34.93. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$34.93. This amount multiplied by 200% yields a MAR of \$69.86.
- Procedure code 99284 has a status indicator of Q3, which denotes codes that may be paid through a composite APC; payment is packaged into a single payment for specific combinations of service. This service is classified under APC 615, which, per OPPS Addendum A, has a payment rate of \$223.17. This amount multiplied by 60% yields an unadjusted labor-related amount of \$133.90. This amount multiplied by the annual wage index for this facility of 0.8883 yields an adjusted labor-related amount of \$118.95. The non-labor related portion is 40% of the APC rate or \$89.27. The sum of the labor and non-labor related amounts is \$208.21. The cost of this service does not exceed the annual fixed-dollar threshold of \$2,175. The outlier payment amount is \$0. The total APC payment for this service, including outliers, is \$208.21. This amount multiplied by 200% yields a MAR of \$416.43.
- Procedure code J1885 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
- Procedure code J2270 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
- Procedure code J2405 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
- Procedure code Q9967 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.

5. The total recommended payment for the services in dispute is \$6,563.38. This amount less the amount previously paid by the insurance carrier of \$2,275.59 leaves an amount due to the requestor of \$4,287.79. The requestor is seeking \$2,449.54. This amount is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$2,449.54.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,449.54, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

|           |  |               |
|-----------|--|---------------|
| _____     | Grayson Richardson                     | June 29, 2012 |
| Signature | Medical Fee Dispute Resolution Officer | Date          |

### ***YOUR RIGHT TO REQUEST AN APPEAL***

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**